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AMEP-Z 72282

Mr. K. David Waddell
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

**Re: Petition of Appalachian Power Company for Approval to Issue Promissory Notes
Docket No. 99-00835**

Dear David:

In connection with the above matter, please find enclosed one original Opinion and thirteen copies for review and execution by the Tennessee Regulatory Authority. This proposed Opinion is being submitted in conjunction with the undersigned's letter to Richard Collier, Esq., dated December 21, 1999, requesting formal action by the Authority concerning your decision that Appalachian was not required to obtain approval from the Authority for its proposed transaction.

While we are not trying to get the Authority to assert jurisdiction, we do believe it is appropriate that the Authority issue findings appropriate to declining to rule on the Application. The proposed Opinion does just that. The proposed findings are consistent with your letter.

We do not believe that this calls for a declaratory order as contemplated by the Administrative Procedures Act, with all the notices and publication attendant to that. That is why we have characterized this as an Opinion, not an Order. Please treat this as a formal request to place this on the agenda for the earliest Authority Conference.

FILE

Mr. K. David Waddell
January 7, 2000
Page Two

If you have any questions, please do not hesitate to call.

With kindest personal regards, we are

Very sincerely yours,

HUNTER, SMITH & DAVIS, LLP

A handwritten signature in black ink, appearing to read "T. Arthur Scott, Jr.", written in a cursive style.

T. Arthur Scott, Jr.

Encl.

c: James Bacha, Esq. (w/encl.)
Thomas Berkemeyer, Esq. (w/encl.)
Richard Collier, Esq. (w/encl.)
Edward Phillips, Esq. (w/encl.)

BEFORE THE TENNESSEE REGULATORY AUTHORITY

Nashville, Tennessee

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RECEIVED IN TTH.

**IN RE: APPLICATION OF APPALACHIAN POWER COMPANY FOR
APPROVAL TO ISSUE PROMISSORY NOTES**

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EXECUTIVE SECRETARY

DOCKET NO. 99-00835

OPINION

On October 29, 1999, Appalachian Power Company ("Appalachian") filed an application seeking approval from the Tennessee Regulatory Authority ("Authority") to issue debt obligations pursuant to Tennessee Code Annotated Section 65-4-109. In its application, Appalachian requested that it be granted permission to issue, sell and deliver, at competitive bidding or negotiated sale, from time to time through December 31, 2000, secured or unsecured promissory notes in an aggregate amount not to exceed \$400,000,000.00, to mature in not less than one (1) year and not more than fifty (50) years.

Appalachian has requested approval for its financings for many years, previously from the Public Service Commission and more recently from the Authority. The original trust indenture was dated December 1, 1940 and first mortgage bonds have been issued pursuant to that indenture and numerous supplements thereto ever since. In addition, the issuance of stock has been approved as well as unsecured debt. Suffice it to say, however, that the genesis of these requests was many years ago, either at or before the dawn of multistate electric companies, regulated in large part by agencies of the federal government.

Appalachian represents that it sells no electricity directly to Tennessee ratepayers but owns property in the State of Tennessee and provides wholesale power to Kingsport Power

FILE

Company, a sister corporation. Wholesale power sales are regulated by the Federal Energy Regulatory Authority. Therefore, the Authority finds that it has no jurisdiction over the rates Appalachian charges its sole customer in Tennessee.

The jurisdiction of the Authority does not extend to utilities engaged in interstate commerce and subject to federal regulation. Tennessee Code Annotated Section 65-4-103.

The Authority does have statutory jurisdiction over interstate transmission companies pursuant to Tennessee Code Annotated Section 65-4-208, but does not have jurisdiction over Appalachian in its business of generating, transmitting, distributing or furnishing electric power to Kingsport Power Company, as Appalachian was engaged in such functions prior to March 22, 1955, which “grandfathers” it pursuant to Tennessee Code Annotated Section 65-4-208.

Prior to the creation of the Authority, the Public Service Commission at least retained a jurisdictional link with Appalachian by setting the values of its properties pursuant to Tennessee Code Annotated Section 67-5-1301. The Authority has no such jurisdiction, however, it having been transferred to the comptroller of the treasury.

Because Appalachian’s functions in Tennessee are presently regulated by other agencies, the Authority finds that approval of securities issuance pursuant to Tennessee Code Annotated Section 65-4-109 is unnecessary.

This Opinion and its findings are limited to the issue of approval of securities issues by Appalachian Power Company and the Authority retains such jurisdiction as it may have over other activities of Appalachian Power Company as a public utility. Furthermore, this action shall not be construed to affect the rights and powers of Appalachian Power Company regarding eminent domain or other rights and powers granted to public utilities in Tennessee.

Hon. Melvin Malone
CHAIRMAN

Honorable H. Lynn Greer
DIRECTOR

Honorable Sara Kyle
DIRECTOR

ATTEST:

K. David Waddell,
EXECUTIVE SECRETARY